

202029006



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Employee Plans

April 21, 2020

Uniform Issue List: 408.03-00

Legend

Taxpayer A =

IRA B =

Account C =

Financial Institution D =

Financial Institution E =

Amount 1 =

Date 1 =

Date 2 =

Date 3 =

Year 1 =

Dear :

This is in response to your request dated February 26, 2020, as supplemented by correspondence dated March 11, 2020, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

You submitted, under penalties of perjury, the following facts and representations in support of your ruling request.

Taxpayer A represents that she received a distribution of Amount 1 from IRA B, which was maintained by Financial Institution D. Taxpayer A asserts that the failure to accomplish a rollover of Amount 1 within the 60-day period prescribed by section 408(d)(3)(A) of the Code was due to reliance on her spouse for all financial and tax matters, her recent divorce from her spouse, and the failure of Financial Institution D to notify her that the distribution of Amount 1 was from an IRA.

Taxpayer A relied on her spouse to handle all financial and tax matters throughout their marriage of 45 years. On Date 1, Taxpayer A and her husband divorced. On Date 2, Financial Institution D made a distribution equal to Amount 1 from IRA B to Taxpayer A. On Date 3, a date within the 60-day rollover period, Taxpayer A deposited Amount 1 into Account C, a non-IRA account maintained by Financial Institution E. Taxpayer A represents that Amount 1 has not been used for any other purpose.

At the time of the distribution of Amount 1, Taxpayer A did not receive any indication from Financial Institution D that Amount 1 was an IRA distribution. Taxpayer A first became aware that Amount 1 was distributed from IRA B in the early part of Year 1 when she received the Form 1099-R from Financial Institution D, which reflected the IRA account and total distribution amount. After consulting with her accountant, Taxpayer A hired an attorney for advice. Taxpayer A's attorney submitted a waiver request on her behalf, however, the ruling request was closed due to procedural deficiencies. Subsequently, on February 26, 2020, Taxpayer A submitted this request for a waiver.

Based on the facts and representations submitted, Taxpayer A requests a ruling that the Internal Revenue Service (Service) waive the 60-day rollover requirement under section 408(d)(3) of the Code with respect to the distribution of Amount 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3) of the Code provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money or any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, provides that the Service will issue a ruling waiving the 60-day rollover requirement in cases where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster or other events beyond the reasonable control of the taxpayer. In determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) the inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information and documentation submitted are consistent with Taxpayer A's assertion that she failed to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) of the Code due to reliance on her spouse for all financial and tax matters, her recent divorce from her spouse, and the failure of Financial Institution D to notify her that the distribution of Amount 1 was from an IRA.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service waives the 60-day rollover requirement with respect to the distribution from IRA B equal to

Amount 1. Taxpayer A has 60 days from the issuance of this letter ruling to contribute an amount no greater than Amount 1, less any required minimum distributions, to an IRA established in the name of Taxpayer A. Provided all other requirements of section 408(d)(3), except the 60-day requirement, will be met with respect to the contribution of Amount 1, such contribution will be considered a rollover contribution within the meaning of section 408(d)(3).

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact

Please address all correspondence to SE:T:EP:RA:T1.

Sincerely,

Adam P. Zaebst

Adam P. Zaebst, Manager
Employee Plans Technical Group 1

Enclosures:

Notice of Intention to Disclose

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